(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

FIRST APPEAL NO. 212 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. E. Afonso, advocate for the appellants.

Respondent no.1 in person.

CORAM : B. H. MARLAPALLE, J.

DATE : 23rd September, 2004.

P.C.:

Heard Mr. Afonso, learned advocate for the appellants. This Appeal arises from the Award passed by the Reference Court under Section 18 of the Land Acquisition Act, 1894, i.e. L.A.C. No.59/2001.

2. By a Notification under Section 4 published in the official gazette dated 5th August, 1994, the State Government acquired the claimants' land ad measuring 2175 sq. mts. for construction of new broad gauge line for the Konkan Railway in Tiloi Balli and Bandordem villages of Quepem Taluka. The Land

Acquisition Officer passed an Award and granted compensation at the rate of Rs.4/- per sq. mt. The claimant accepted the amount, but moved an application under Section 18 of the Act for enhancement and claimed that the compensation ought to have been paid at the rate of Rs.12/- per sq. mt.

3. The Reference Court framed the only issue as to whether the compensation was payable at the rate of Rs.12/- per sq. mt. and answered it in the affirmative. The claimant had examined himself and produced copies of the Awards passed by the Land Acquisition Officer as well as the Award in L.A.C. No.283/94 passed by the Reference Court on 16th February, 2000 under Section 30 of the Act. He had also placed reliance on the Award passed by the Reference Court in LAC No.471/95 and 472/95. The respondents did not appear before the Reference Court inspite of the

notice having been served on them and the respondents are the present appellants.

4. The Court recorded a finding that the State Government had acquired a portion of 2250 sq. mts. from survey no.85/7 for construction of broad gauge line of Konkan Railway and possession was taken somewhere in 1993. The Land Acquisition Officer had fixed advance amount at Rs.20/- per sq. mt. and after conducting an enquiry the market value was fixed at Rs.12/- per sq. mt. This was clear from the document at Exh.12. The land covered by the said Award was from the same property as was the subject-matter of reference in the instant case and land was acquired sometime in 1991, whereas the present claim land was acquired in 1994 and the Reference Court, therefore, thought that the Land Acquisition Officer ought to have given either the rate of Rs.12/- per

sq.mt. or more, considering the rise in the prices of land for a period of three years. Leave alone giving the enhanced rate, the Land Acquisition Officer slashed down the rate to Rs.4/- per sq. mt. The Reference Court rightly accepted the compensation rate at Rs.12/- per sq. mt. by relying upon the market value fixed by the Land Acquisition Officer himself in the year 1991 in respect of the part of the land acquired earlier from survey no.85/7. In fact, the Reference Court could have been justified in granting the market value at higher rate than Rs.12/- and in any case, the claimants have not challenged the rate fixed at Rs.12/- per sq.mt. The Reference made to the Court was for compensation at the rate of Rs.12/- sq. mt.

5. The Award passed by the Reference Court and challenged in this appeal cannot be faulted with on any count and, therefore, this

Appeal must fail at the threshold. The same is dismissed in limine.

B. H. MARLAPALLE, J.

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